

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

UNITED STATES OF AMERICA,

PLAINTIFF,

v.

STATE OF GEORGIA,

DEFENDANT.

Civil Action No.

1:16-cv-03088-ELR

**UNITED STATES’ MOTION TO COMPEL COMPLIANCE WITH
RULE 45 SUBPOENAS FOR INSPECTION OF PREMISES AFFILIATED
WITH THE GEORGIA NETWORK FOR EDUCATIONAL AND
THERAPEUTIC SUPPORT AND FLOYD COUNTY SCHOOLS**

Pursuant to Rule 45(d)(2)(B) of the Federal Rules of Civil Procedure, Plaintiff United States of America (“United States”) respectfully submits this Motion to Compel Compliance with Subpoenas for the Inspection of Premises Affiliated with the Georgia Network for Educational and Therapeutic Support (“GNETS”) Program and Floyd County Schools (“FCS”) and states as follows:

1) Each Rule 45 subpoena contains a near uniform inspection protocol as Attachment A.¹ That inspection protocol, attached hereto as Exhibit A, outlines the

¹ There are two versions of Attachment A. The first applies to facilities where the two inspection teams intend to conduct inspections at different times on the same date (“Version 1”), and the second applies to facilities where the two inspection teams intend to conduct inspections on different dates (“Version 2”). Scheduling inspections of numerous GNETS program locations across the State of Georgia is logistically complex. The United States has scheduled the inspections to maximize

terms on which the United States proposes to conduct each inspection.

2) On December 17, 2021 and January 7, 2022, the United States met with FCS to discuss its objections to the United States' proposed site inspections.

3) On January 24, 2022, the United States served two Rule 45 inspection subpoenas on FCS. (Doc. 178) On February 7, 2022, FCS filed written objections to the Rule 45 inspection subpoenas. (Doc. 155) The United States met and conferred with counsel for FCS on March 2, 2022. During that time, the parties discussed but were unable to resolve the issues in dispute.

4) On March 28, 2022, following a conference with this Court and in accordance with this Court's standing order for civil cases, the United States and FCS filed a Consolidated/Joint Discovery Statement that addresses the issues that remain in dispute. (Doc. 175) That Consolidated/Joint Discovery Statement, which specifically identifies each objection, the grounds asserted for the objection, and the United States' response, is incorporated here by reference.

5) On March 31, 2022, this Court entered an Order directing the United States to file any motions to compel as to FCS within seven days. (Doc. 176)

6) The grounds supporting this motion are set forth in the accompanying Memorandum in Support of the United States' Motion to Compel Floyd County

efficiency and minimize costs. This inspection schedule drives the version of Attachment A served on a given nonparty. Apart from language addressing the timing of inspections, the two versions are identical.

Schools' Compliance With Rule 45 Subpoenas for Inspection of Premises.

WHEREFORE, in light of the foregoing and the attached Memorandum of Law in Support, the United States respectfully requests that this Court grant its Motion to Compel and issue an order (a) deeming the terms of the site inspection protocol included as Attachment A to the United States' Rule 45 subpoenas valid and enforceable under applicable law, (b) compelling FCS to comply with the terms of the Rule 45 inspection subpoenas served on it, including the site inspection protocol contained in Attachment A, and (c) granting such other relief as this Court shall deem just and proper.

Respectfully submitted this 7th day of April, 2022.

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L.R. 7.1(D) CERTIFICATION

I certify that this statement has been prepared with one of the font and point selections approved by the Court in Local Rule 5.1(C). Specifically, this motion has been prepared using 14-pt Times New Roman font.

/s/ Kelly Gardner Womack
KELLY GARDNER WOMACK

CERTIFICATE OF SERVICE

I certify that, on this 7th day of April 2022, I electronically filed the foregoing Motion to Compel Compliance with Rule 45 Subpoenas for Inspection of Premises with the Clerk of Court using the CM/ECF system, in order to effect service upon all counsel of record.

/s/ Kelly Gardner Womack
KELLY GARDNER WOMACK